

EDUARDO VIDAL AND PABLO DE JESUS, PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS AND ROLANDO BELEN, EMILIO BONLFACIO, JUVENAL LEGASPI, TEODORO T. CALALANG, ANTONIO DOLOSON, ARCA...*G.R. No. L-29002. July 30, 1969*

Ponente: CONCEPCION, C.J.

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This is a special civil action for mandamus.

Petitioner Eduardo Vidal was general president of the Kapisanan ng Mga Manggagawa sa Perokaril, hereafter referred to as Union. Before the expiration of his term ending on May 15, 1968, he sought another term at the national election of officers of the Union scheduled to be held on March 28, 1968. His co-petitioner Pablo de Jesus, another Union member, likewise, ran in said election, for the office of general treasurer. Their main opponents were Rolando Belen, for president, and Emilio Bonifacio, for general treasurer. Said election was to be conducted, pursuant to the Election Code of the Union, under the supervision of an Election Committee - hereinafter referred to as Committee - composed of private respondents herein, Juvenal Legaspi, Teodoro T. Calalang, Antonio R. Dolozon, Arcadio Alon, Laureano B. Caracta and Buenaventura Mapanao.

After the election returns, ballot boxes and other papers pertaining to said election had been transmitted to the Committee for canvassing in Manila, there was an incident which induced Belen to file, on April 2, 1968, a petition, docketed as Charge No. 2419 of the CIR, against said respondents, alleging that, when the canvass was about to begin, respondent Dolozon, "with threats of bodily harm tried to get from him (Belen) the key to the room where the ballot boxes" were kept; that "on the same occasion there were several persons, not members of the Union, who were around bearing firearms"; and "that several minutes before the above incident, x x x the secretary of the Comelec delivered to the chairman of the committee (Mr. Juvenal Legaspi)" the returns for six (6) precincts named in the petition, and praying that said Mr. Legaspi be ordered to deliver to the Clerk of the CIR the above-mentioned returns and the members of the Committee directed to convene in the CIR "and there make the canvass of the election returns x x before a represen-tative" of said Court. Soon thereafter, or on April 8, 1968, the parties in said Charge and Eduardo Vidal executed a compromise agreement stipulating, inter alia:

"That after canvassing the election returns of each box, it is hereby agreed that the entire ballots be counted under the following conditions:

"(a) That the number of votes in the election returns inside the ballot boxes and the number of bal-lots corresponding to said election returns will be simultaneously counted;

"(b) That in the counting of ballots, any question as to the legality will be held in abeyance and the ballots in question will be counted in favor of the candidate voted upon in the ballot, but the ballot will be placed under question mark. If, in the overall counting, the winning candidate obtains a majority votes which cannot be overcome or affected by the questioned ballots, the legality of the ballots will no longer be put in question,

but if the number of questioned ballots will be the deciding factor as to who will be the winner for a certain position, the questioned ballots will be acted and decided by the Election Committee as in a formal protest under the provisions of the Election Code."

After canvassing the corresponding election returns, the Committee certified that Vidal had received 845 votes for president, as against 1,003 of Belen, who, accordingly, had a plurality of 158 votes, and that De Jesus had obtained 496 votes for treasurer, as against 527 votes of Bonifacio, who thus had a plurality of 31 votes. Out of the 1,003 votes in favor of Belen, 332 had, however, been questioned by Vidal, and 114 of the 527 votes cast for Bonifacio were contested by De Jesus. This notwithstanding, the Committee, without passing upon the legality of these two (2) sets of questioned ballots, issued the corresponding certificate of the "election results" and "proclamation", declaring, among others, that Belen and Bonifacio had been elected general president and general treasurer, respectively, of the Union. Accordingly, on April 29, 1968, Vidal and De Jesus moved, in the proceedings involving Charge No. 2419, that the aforementioned certification and proclamation of the winning candidates be nullified and that the Committee be instructed to recanvass the contested ballots in accordance with the above-quoted provisions of the compromise agreement, in order to determine the real winning candidates for the positions already adverted to. Inasmuch, however, as the candidates proclaimed elected, including Belen and Bonifacio, took their respective oaths of office on April 30, 1968, Vidal and De Jesus, without waiting for the action of the CIR on their motion of April 29, 1968, commenced in this Court, on May 9, 1968, the present special civil action for mandamus against Belen, Bonifacio and the members of the Committee, praying that this Court:

"1. Issue a Writ of Mandamus against the respondent Court of Industrial Relations to act on the Urgent motion of the herein petitioners which is in fact a motion for a Writ of Execution, to order the respondent members of the Election Committee to revise the questioned ballots for validity under the compromise agreement which is in the nature of an order of said Court, x x x, with preliminary injunction to enjoin respondents Rolando Belen and Emilio Bonifacio from assuming the positions of General President and Treasurer, respectively, of said labor union and to allow petitioner Eduardo Vidal to continue as President of the labor union as 'hold-over' president, pending result of the recanvassing;

"2. To also nullify the certification of the alleged winning candidates of respondent Election Committee; and

"3. Lastly, to nullify the 'Proclamation' x x x, by said members of the Respondent Election Committee, which was with the sanction of the respondent Court, of the alleged winning candidates as well as their induction into office, which powers are vested with the present Board of Directors of the union and that in the meantime, for the present officers of the labor union to continue in office pending compliance with the legal Proclamation and induction of the newly elected candidates as per the union's Election Code, x x x."

Meanwhile, or on May 8, 1968, Belen had filed, with the CIR, a motion to dismiss the aforementioned Charge No. 2419, upon the ground that it had become moot and academic. Soon thereafter, an acting prosecutor of said Court moved to dismiss said charge, alleging that the acts therein complained of do not constitute an unfair labor practice. As prayed for in these motions and despite Vidal's opposition thereto, Presiding Judge Arsenio I. Martinez of the CIR issued an order, dated May 24, 1968, dismissing Charge No. 2419, upon the grounds already mentioned.

Herein petitioners maintain that the proclamation of Belen and Bonifacio as candidates-elect for general president and general treasurer of the Union is null and void, the Committee not having complied with the provision in the compromise agreement to the effect that, when the number of questioned ballots in favor of the candidate who obtained the largest number of votes exceeds that of his plurality over the candidate who got the second largest number of votes, as in the case at bar, the Committee shall pass upon the objections to said questioned ballots, so as to ascertain who has been elected, and that, consequently, the CIR should be compelled to act on petitioners' urgent motion of April 29, 1968, and to direct the Committee to recanvass the questioned ballots for Belen and

Bonifacio, in accordance with the stipulations of said agreement.

Upon the other hand, it is urged by respondents herein that the alleged threats to get a given key and the presence of non-members of the Union provided with firearms, without any averment that these threats were made, or said armed men were there, on behalf or by order of the Union or the Committee, and the alleged delivery of some election returns by the secretary of the Committee to its chairman, before the actual beginning of the canvass, do not constitute an unfair labor practice; that, for this reason, and because said acts do not fall under any of the other categories of cases falling within the jurisdiction of the CIR, the same had no authority to entertain said Charge No. 2419; that, even if said acts amounted to an unfair labor practice, the CIR had no authority to act upon the charge until its prosecutor shall have filed the corresponding complaint; that said prosecutor had, not only filed no such complaint, but even moved for the dismissal of Charge No. 2419; that, since the CIR had no jurisdiction over the merits thereof, neither did it have authority to act upon petitioners' motion of April 29, 1968, the same being a mere incident of Charge No. 2419; and that, consequently, the CIR should not and cannot be compelled by mandamus to pass upon the merits of said motion.

Even, however, if the CIR had authority to entertain said motion, we find that petitioners herein are not entitled to the relief prayed for. In this connection, it should be noted that the motion was filed as part of the proceedings in connection with Charge No. 2419; that these proceedings were dismissed by an order of Presiding Judge Martinez, dated May 24, 1968; that a decision or order of a CIR Judge may not be reviewed directly by the Supreme Court[1]; that the party aggrieved by said decision or order must first seek its reconsideration by the CIR en banc, which petitioners herein never did; that, even if Presiding Judge Martinez had not acted on the motion of April 29, 1968, petitioners could have sought the proper relief from the CIR en banc; that only decisions or orders of the CIR en banc are reviewable by the Supreme Court; that petitioners have neither moved for a reconsideration of the order of dismissal of Presiding Judge Martinez nor asked from the CIR en banc the proper remedy against his failure to act on said motion; and that, consequently, petitioners herein are barred from seeking the assistance of this Court. As stated in *Namarco v. Hon. E. Tabigne*:"[2]

“x x (I)t is well settled that only an award, order or decision of the CIR in banc, and not that of any of its Judges, is appealable to this Court x x x . Petitioner, therefore, should have resorted first to the Court of Industrial Relations in banc before coming to this Court. While, under its rules, a motion for reconsideration to the full court requires a period for the opposing party's answer before the motion may be acted upon, there is no law prohibiting or divesting the CIR in banc from exercising in the meantime, and upon proper application, the power to stay or suspend the enforcement of any order, ruling or decision of au of its trial judges, pending resolution of the motion to reconsider, where such stay is imperative to prevent reconsideration from becoming nugatory. This power is implied in the right of the Industrial Court in banc to affirm, alter, modify or reverse the orders, rulings or decisions of any of its trial judges x x x. On this score, failure to present a motion to reconsider before the CIR in banc is fatal to the instant petition.”[3]

WHEREFORE, the present action for mandamus should be, as it is hereby dismissed, with costs against petitioners herein.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.
Zaldivar, J., took no part.

[1] *NAMARCO Employees v. Hon. Tabigne*, L-23294, April 30, 1966; *Broce v. CIR*, 106 Phil. 388, 390-391.

[2] L- 23294, April 30, 1966.

[3] See, also, *Luzon Stevedoring v. Luzon Marine Dept. Union*, 101 Phil. 257, 271-272; *Connel Brothers v. NLU*, L-3631, June 30, 1956. Underscoring supplied.

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